IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 943 of 1991

For Approval and Signature:

Hon'ble MR.JUSTICE R.K.ABICHANDANI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

VILASBEN K RAIJADA

Versus

RAJKOT DIST. PANCHAYAT

Appearance:

1. Special Civil Application No. 943 of 1991

MR DM THAKKAR for Petitioner

NOTICE SERVED for Respondent No.1

MR MAYANK VORA for Respondent No.2 - Absent

CORAM : MR.JUSTICE R.K.ABICHANDANI

Date of decision: 02/07/2003

ORAL JUDGEMENT

1. The petitioner, who was serving as an Auxillary Nurse since 1976, has challenged the impugned order dated

19/21-1-1991 passed by the District Development Officer, Rajkot, terminating her services from the date of the order.

2. The impugned order was made on the ground that, despite intimation to the petitioner for filling up the form and appearing at the interview which was to be held on 3-8-1990, she neither filled up the form nor remained present for the interview and therefore, she did not comply with the condition of appointment incorporated in her appointment order dated 14-4-1976, at Annexure "A" to the petition, by which her appointment was made conditional to her undergoing the selection process through the District Panchayat Service Selection Committee, Rajkot.

3. The petitioner has, in paragraph 3 of the petition, in terms stated on oath that she was not called upon to appear before the District Panchayat Selection Committee, as mentioned in the impugned order. It is stated that she had applied to the District Panchayat Selection Committee by filling up the form on 21-4-1987 and had received a communication dated 1-10-1987 that since she did not possess the educational qualification, she cannot be called for the selection. A copy of that communication is placed at Annexure "E" to the petition. The respondents have not cared to appear or file any reply to the averments made in the petition in which it is asserted that the petitioner possessed the necessary qualification, and that she was not informed for appearing at the Selection Committee, as mentioned in the impugned order by which her services were terminated on the ground that she had not appeared before the Committee despite the intimation given to her. Since the respondents have not controverted the assertion of the petitioner that she was never intimated to appear before the Selection Committee, the very basis for passing the impugned order is not shown to have existed. The impugned order, therefore, cannot be sustained and is hereby set aside.

4. The learned counsel for the petitioner states that, pursuant to the impugned order, the services of the petitioner were, in fact, terminated. He states that, if reinstated, she would even be ready to appear before the Selection Committee and will not claim any emoluments for the intervening period.

5. In view of the above, the respondents are directed to reinstate the petitioner forthwith, if she has not already crossed the age of superannuation, on the

terms on which she was initially appointed and to give her an opportunity to appear before the Selection Committee, as per the stipulations contained in her appointment order. The petitioner will not be entitled to any arrears or claim in respect of the intervening period. Rule is made absolute accordingly with no order as to costs.

[R.K.ABICHANDANI, J.]

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